IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION.

SECOND APPEAL NO.465 OF 1998

Shri Shantilal Bandulal Saha and ors. Appellants.

Vs

Vadilal Bhaichand Saha,
since deceased through heirs
(a) Smt. Vimal wadilal Saha
and ors. .. Respondents.

Mr S.B.Shetye, for the appellants.
Mr F.A.Mulla i/b Mr S.M.Kable for respondent no.1(B).

CORAM : D.B.BHOSALE,J.
DATE : 09.01.2007.

PC:

1. Heard Mr Shetye, learned counsel for the appellants and Mr Mulla, learned counsel for respondent no.1(B).

2. This appeal by the original plaintiffs is direct against the judgment and order dated 31.7.1997 passed by the appeal court allowing the appeal filed by the respondent-defendant. The appeal of the respondent was directed against the judgment and order dated 8.2.1993 by which the suit filed by the appellants for recovery of certain articles and in the alternative for Rs.20,000/- towards cost of the articles, had been partly decreed and the respondent-defendant was directed to pay Rs.20,000/- to the appellants-plaintiffs. The

appeal court, after having considered the entire material on record, in paragraphs 7 to 10 has recorded a categoric finding that the appellants have failed to prove that the articles mentioned in the plaint paragraph no.1 were owned by them and that they are entitled to get back the articles or the cost of the artcles. Mr Shetey, learned counsel for the appellants, vehemently submitted that the material on record is sufficient to establish that the articles were handed over to the respondent-defendant and that has been established by the evidence led before the trial Court. I perused the judgments of both the courts below. The first appeal court has reappreciated the evidence on record in proper perspective and, in my opinion, has not committed any error either of law or facts in allowing the appeal filed by the respondent-defendant. No substantial question of law, in my opinion, is involved in the present appeal. In the circumstances, this appeal is dismissed.

(D.B.BHOSALE,J.)